

MINUTES
ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
1110 West Washington, Conference Room #240
Phoenix, AZ 85007

Tuesday, February 25, 2014

9:00 a.m.

OPEN SESSION

1. **CALL TO ORDER -**
2. **ROLL CALL** – Board Members in attendance: Edward T. Marley, LeRoy Brady, Douglas T. Whitneybell, Douglas Folk, Stuart R. Lane, and Alejandro Angel, Ph.D. Staff: Melissa Cornelius, Lorraine Brown, Manuel Maltos, Patrice Pritzl and Jennifer Mitchell. Assistant Attorney General: Elizabeth Campbell. Absent: Jason K. Madison, Robert Stanley, and Erick Weiland.
3. **CALL TO THE PUBLIC** - Robert Smiley addressed the Board.
4. **ADOPTION OF MINUTES**
Review, Consideration, and Possible Action on the following:
 - A. Approve, modify, and/or reject January 28, 2014 minutes.
Mr. Brady moved to approve with amendment. Mr. Whitneybell seconded. No discussion, motion carried.
 - B. Approve, modify, and/or reject February 11, 2014 Strategic Planning Meeting Minutes.
Mr. Brady moved to approve with amendment. Mr. Whitneybell seconded. No discussion, motion carried.

5. **ENFORCEMENT MATTERS**

Review, Consideration and Possible Vote on the following:

- A. Proposed Dismissals:
 1. A13-019, Douglas L. Brimhall, P.E. (Civil) #36630
Mr. Marley recused himself for conflict of interest. Mr. Lane moved to dismiss. Mr. Whitneybell seconded. No discussion, motion carried. Mr. Lane moved to direct Staff to open a complaint against the town engineer and the engineer of record to identify the registrants in connection with this project who failed to exhibit technical skill and competence or comply with applicable laws. Mr. Whitneybell seconded. No discussion, motion carried.
 2. HI14-008, Martin J. Lenich, CHI #40587
Mr. Brady moved to dismiss the case. Mr. Lane seconded. No discussion, motion carried.
 3. HI14-036, Peek Inspections, Timm R. Johnson, CHI #43461
Mr. Brady moved to dismiss the case. Mr. Folk seconded. No discussion, motion carried.
 4. HI14-039, Patriot Home Inspections, LLC, Raymond P. Pinger, CHI #48513

Mr. Brady moved to dismiss the case. Mr. Whitneybell seconded. Brief discussion, motion carried.

5. P14-040, K.T. Design, Kevin T. Taylor, Nonregistrants

Dr. Angel moved to dismiss the case. Mr. Whitneybell seconded. No discussion, motion carried.

B. Proposed Consent Agreements:

Dr. Angel moved to place cases 5.B.2, 5.B.3, and 5.B.5, through 5.B.11 on the Consent Agenda. Mr. Folk seconded. Discussion, motion carried. As to the case included in the Consent Agenda Mr. Folk moved to reject the signed Consent Agreements and issue a Letter of Concern. Mr. Lane seconded. No discussion, motion carried.

1. A13-005, Arquitectura, LTD, Jesus G. Castro, Architect #20113

Mr. Lane moved to accept the signed Consent Agreement. Mr. Folk seconded. Brief discussion, motion carried.

Consent Agenda

2. HI14-014, PGM Development Inc., Paul G. McDowell, CHI #49504

3. HI14-018, Anchor Inspections PLLC, Stanley C. Fikel, CHI #46459

5. HI14-028, Trojan Pest Control & Home Services, Alexander R. Alvarez, CHI #45674

6. HI14-030, Pillar to Post, Randy Q. Hogenmiller, CHI #43596,

7. HI14-031, Aspen Home Inspections, LLC, Scott J. Hartfield, CHI #45340

8. HI14-032, Nest Technologies, Inc., Dan P. Smith, CHI #38616

9. HI14-033, Five-O-Home Inspections, Scott P. Wilson, CHI #51748

10. HI14-035, Hennen Home Inspections, LLC, Bruce H. Hennen, CHI #43577

11. HI14-038, House Facts Home Inspections, Mark P. Craig, CHI #50421

Regular Agenda

12. HI14-040, Wise Home Services, Timothy J. Carreau CHI #52470

Mr. Folk moved to accept the signed Consent Agreement. Mr. Lane seconded. No discussion, motion carried.

13. P14-031, Pe-Shen Yang, P.E (Civil) #22221

Mr. Brady recused himself from the case because of a conflict of interest. Mr. Yang wasn't present but was represented by legal counsel, Charles Arnold. Dr. Angel moved to accept the signed Consent Agreement. Mr. Lane seconded. Discussion, motion carried.

14. P14-036, Manne Engineering, Harry Manne, Nonregistrants

Mr. Folk moved to accept the signed Consent Agreement. Mr. Lane seconded. No discussion, motion carried. Mr. Lane directed staff to investigate Mr. Hart for possible aiding and abetting a non-registrant.

Removed from the Consent Agenda and discussed individually:

4. HI14-019, Arizona Quality Inspections, LLC, Robert J. Smiley, CHI #46134

Mr. Folk moved to reject the signed Consent Agreement and issue a Letter of Concern. Dr. Angel seconded. Discussion, motion carried.

C. Discussion, Consideration, and Possible Action on the following:

1. A14-001, Oscar E. Bluth, Nonregistrant, Alarm Application #133144

Mr. Lane moved to go into Executive Session at 11:35 am. Mr. Lane seconded. The Board returned to Regular Session at 11:44 am.

Mr. Folk moved to direct Staff to seek assurance of discontinuance, administrative penalty of \$1,000, and cost of investigation. Dr. Angel seconded. No discussion, motion carried.

2. A14-002, Christian A. Bluth, Alarm Registrant #56382

Dr. Angel moved to direct Staff to seek probation for 2 years with the condition of obeying all laws, administrative penalty of \$1,000, and cost of investigation. Mr. Lane seconded. No discussion, motion carried.

3. HI14-012, Down to Earth Inspections, David A. Jaquish, CHI #53076

Mr. Folk moved to reject the signed Consent Agreement and issue a Letter of Concern. Mr. Lane seconded. No discussion, motion carried.

4. HI14-013, A & A Home Inspection Services, LLC, James J. Angelino, CHI #38077

Mr. Folk moved to reject the signed Consent Agreement and issue a Letter of concern. Mr. Brady seconded. No discussion, motion carried.

D. Formal Administrative Hearing- *TIME SPECIFIC SCHEDULE FOR 9:00 AM*

1. M08-043, M11-063, Teodorico I. Gutierrez, P.E. (Civil) #17984

Mr. Folk recused himself because of a conflict of interest.

The Board held a Formal Administrative Hearing in the matter of Teodorico I. Gutierrez holder of registrations number 17984 as a profession engineer (Civil) in the State of Arizona. Registrant was not present and was not represented by Legal Counsel. Elizabeth Campbell, Assistant Attorney General, presented the State's position. Christopher Munns, Office of Solicitor General, provided independent legal counsel to the Board. Mr. Lane moved to accept the State's Motion to Deem. Dr. Angel seconded. No discussion, motion carried.

Mr. Lane moved to adopt the factual allegations and allegations of unprofessional conduct from the Complaint and Notice of Hearing as Findings of Fact and Conclusions of Law. Dr. Angel seconded. No discussion, motion carried.

Mr. Lane moved to issue a Letter of Reprimand, Administrative Penalty of \$2,000.00, peer reviews for the next 3 drainage projects, and the Cost of Investigation. Dr. Angel seconded. No discussion, motion carried.

6. LICENSING MATTERS

Formal Hearings on Denial of Certification: *Time Specific: 9:30 a.m.*

A. Jacob Ellsworth - Applicant for Alarm Agent Certification # 131736

The Board held a Formal Administrative Hearing in the matter of Jacob Ellsworth, applicant. Applicant was not present and was not represented by Legal Counsel. Elizabeth Campbell, Assistant Attorney General, presented the State's position. Christopher Munns, Office of Solicitor General, provided independent legal counsel to the Board. Mr. Angel moved to uphold denial of application

based on applicant's failure to appear. Mr. Lane seconded. Discussion, motion carried.

- B. Eric Hallquist - Applicant for Alarm Agent Certification # 131987
The Board held a Formal Administrative Hearing in the matter of Eric Hallquist, Applicant. Applicant was present and represented himself. Elizabeth Campbell, Assistant Attorney General, presented the State's position. Christopher Munns, Office of Solicitor General, provided independent legal counsel to the Board. Dr. Angel moved to uphold the denial of application. Mr. Brady seconded. Discussion, motion carried.

Uphold or Rescind Board's Previous Vote to Take the ARE and complete IDP

- C. Ballantyne, Thomas Architect Application #130466
Mr. Ballantyne was present by phone to address the Board.
Mr. Brady moved to table this matter and directed Staff to obtain additional information and for Mr. Ballantyne to produce documentation to support his application. Mr. Folk seconded. Discussion, motion carried.

Uphold or Rescind Board's Previous vote to Deny Application

- D. Juan Martinez - Alarm Application #131827
Mr. Lane moved to rescind previous denial and grant certification. Mr. Whitneybell seconded. No discussion, motion carried.
- E. Michael Miller - Alarm Agent Application #132996
Mr. Lane moved to rescind previous denial and grant certification. Mr. Brady seconded. No discussion, motion carried.
- F. Andrew Durant - Alarm Agent Application # 131826
Mr. Angel moved to go into Executive Session at 12:37 pm. Mr. Brady seconded. The Board returned to regular session at 12:48 pm.
Mr. Lane moved to rescind previous denial and grant certification. Mr. Whitneybell seconded. No discussion, motion carried.

7. LICENSING CONSENT AGENDA

- A. Review, Consideration, and Action on the Evaluation Committee and Staff Recommendations for the following (Lists of names available at the Board's office for public review):
1. Granting professional registrations, certifications or in-training designations pursuant to A.R.S. §§ 32-122.01, 32-123;
 2. Granting approval to applicants to sit for the professional or in-training examinations pursuant to A.R.S. § 32-122;
 3. Granting professional registrations to those applicants possessing NCARB Blue Cover or NCEES Model Law Engineer certifications, pursuant to A.R.S. § 32-122.01, and § 32-123;
 4. Granting professional registrations, certifications or in-training designations or authorizations to test to those applicants who disclosed minor criminal history that has no reasonable relationship to the applicant's proposed area of practice

- or who disclosed lesser disciplinary action taken against their registrations in other jurisdictions, pursuant to A.R.S. §§32-122, 32-122.01 and § 32-123;
5. Administratively closing professional or in-training applications pursuant to A.R.S. §§ 32-122, 32-122.01(A); A.A.C. R4-30-204(E);
 6. Deny Certification to Alarm Controlling Persons and Alarm Agents pursuant to A.R.S. § 32-122.07;
 7. List of Alarm firm and Alarm Agent certifications granted by the Executive Director pursuant to A.R.S. § 32-122.05 and A.R.S. § 32-122.06.

Teddy Wright asked to address the Board. Upon determination that Mr. Wright's topic was not agendaized, the Board informed Mr. Wright that the matter could not be discussed.

Mr. Whitneybell moved to approve the Licensing Consent Agenda of 7.A.1-7.A.7 with the exception of Christopher John and John Windsor.

John Windsor, Alarm Agent Applicant, 133269. Dr. Angel moved to table for more investigation and information. Mr. Lane seconded. No discussion, motion carried.

Christopher John, Alarm Agent Applicant, 132252. Mr. Folk moved to grant certification. Mr. Whitneybell seconded. No discussion, motion carried.

8. REVIEW, CONSIDERATION AND ACTION ON THE FOLLOWING:

- A. Registrations that have been expired for three years and recommended for cancellation: None
- B. Certifications that have been expired for one year and recommended for cancellation: None

9. POLICY MATTERS

Review, Consideration, and Possible Action on the following:

- A. How Long the Board wants to disclose disciplinary action on its website.
Discussion, no action taken.
- B. Conflict of Interest Training for Board Members.
Assistant Attorney General Elizabeth Campbell reviewed her written article on Conflict of Interest.
- C. Regarding whether to open new complaints or take some other action against those Registrants who have failed to comply with Board orders to pay Administrative Costs and Board Costs of Investigations.
Director Cornelius advised that after 90 days the matter could be sent to collections and brought to the Board for decision to open a new case.
- D. Pending Legislative Updates.
Director Cornelius updated the Board about HB2546, HB2499, HB2360, HB2561 and HB2500.

10. **DIRECTOR'S REPORT** - Director Cornelius reviewed her written report and highlighted follow up work on previous issues.
11. **BOARD CHAIR'S REPORT** - Mr. Marley had nothing written up to report on.
12. **STANDING COMMITTEE REPORTS**
- A. Legislation and Rules Committee – Meeting was cancelled for lack of quorum. Date for reschedule has not been determined.
 - B. Home Inspector Rules and Standards Committee - Meeting was cancelled for lack of quorum. Date for reschedule has not been determined.
 - C. Environmental Remediation Rules and Standards Committee – No meeting.
13. **BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES**
- A. National Council of Examiners for Engineering and Surveying (“NCEES”) Meeting Lincoln Nebraska.
 - B. National Council of Architectural Registration Boards (“NCARB”) Director Cornelius, Ms. Pritzl, Mr. Marley, and Mr. Whitneybell will be attending Regional Summit in San Antonio March 5-9, 2014.
 - C. Council of Landscape Architectural Registration Boards (“CLARB”) Director Cornelius had a telephonic committee meeting to set up annual meeting.
 - D. National Association of State Boards of Geology (“ASBOG”) APEGA annual meeting in Edmonton Alberta Canada. April 24-26, 2014
 - E. Public Member News/Information
Nothing to report.
14. **FUTURE BOARD MEETINGS** – Tuesday, March 25, 2014 at 9:00 a.m.
15. **SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.**
- A. Approve 5 year rules review
 - B. Training
 - C. Alarm refunds
 - D. Legislative updates
 - E. Newsletter
 - F. Notice Renewal
 - G. Enforcement disciplinary matrix
 - H. Meet lobbyist
16. **ADJOURNMENT** – 2:08 pm



Edward Marley, Chairman



Melissa Cornelius, Executive Director